

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1292 of 2004 (M/S)

- 1. St. James School Society,
Ward No. 3, Church Road,
P.O. Vikas Nagar,
Through its Joint Secretary, Heretpur,
District Dehradun**
- 2. Right Revd. John A Prakash,
Bishop of Delhi,
Manager, St. James School Society,
Vikas Nagar,
District Dehradun (now deceased)**
- 2/1 Mr. John Ashish
Manager, St. James School
Vikas Nagar,
District Dehradun**
- 3. Right Revd. S.P. Prakash,
Bishop of Lucknow,
Anglican Church of I
Vikas Nagar, District Dehradun
and President of St. James
School Society, Vikas Nagar**

..... Petitioners

Versus

- 1. Civil Judge (Junior Division) Dehradun**
- 2. Sri D.H Edward S/o Sri C.H. Edward
R/o 80/1, Neshvilla Road,
District Dehradun**
- 3. Sri Prem Masih Singh,
S/o Sri Narayan Singh,
Church House, Vikash Nagar,
District Dehradun**

..... Respondents

Mr. Alok Singh, Senior Advocate assisted by
Mr. Gopal Narayan, learned counsel for the petitioners.
None for the respondents.

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, the petitioners have
challenged the order dated 26.7.2001 passed by learned Civil

Judge (Junior Division), Dehradun in original suit No. 329 of 1988 on application 75-C moved by the defendant No.2.

2) Heard learned counsel for the petitioners.

3) Today the petitioners have filed a copy of application 75-C alongwith the supplementary affidavit which shows that a request was made to the trial court for consolidation suit No. 332 of 1996 and 329 of 1988. The learned trial court has rejected the said application on the ground that the case is already listed for arguments. My attention is drawn to the Rule 1 contained in Order 4A (as amended by U.P. Act No. 57 of 1976) of the Code of Civil Procedure, 1908, wherein it is provided that when two or more suit or proceedings are pending in the same court, and the court is of the opinion that it is expedient in the interest of justice, it may be order direct their joint trial whereupon all such suit and proceedings may be decided upon the evidence in all or in all such suit or proceedings.

The language of the aforesaid Rule 1 of Order 4A of the Code, as mentioned above, clearly shows that it is the discretion of the trial court to consolidate the suits. Since the evidence have already been recorded and the suits were pending at the stage of arguments, as such, the discretion exercised by learned trial court not allowing the application to consolidate the suit, cannot be said to be against the law. Hence, the writ petition is devoid of merits and is dismissed in limine.

(Prafulla C. Pant, J.)

Dt: 23.12.2004

HN

